

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v. CRIMINAL NO. 05-12 ERIE

SHAUN LANAIL BENNAFIELD

CHANGE OF PLEA

Proceedings held before the HONORABLE
SEAN J. McLAUGHLIN, U.S. District Judge,
in Courtroom C, U.S. Courthouse, Erie,
Pennsylvania, on Thursday, November 10, 2005.

APPEARANCES:

MARSHALL J. PICCININI, Assistant United States
Attorney, appearing on behalf of the Government.

THOMAS W. PATTON, Esquire, appearing on behalf

Ronald J. Bench, RMR - Official Court Reporter

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1 P R O C E E D I N G S

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3 (Whereupon, the proceedings began at 1:30 p.m., on
4 Thursday, November 10, 2005, in Courtroom C.)

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6 THE COURT: Mr. Bennafield, I'm informed that you
7 wish to change the plea that you previously entered at Count
8 One of Indictment No. 05-12 Erie to a plea of guilty, is that
9 correct?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Before accepting your guilty
12 plea, there are a number of questions that I will ask you to
13 make certain it is a valid plea. If you do not understand any

14 question, please tell me and I will explain it to you. If at
15 anytime you wish to consult with your attorney, please tell me
16 that and I will give you an opportunity to consult. I give you
17 these instructions because it is essential to a valid plea that
18 you understand every question before you answer it.

19 Would you please administer the oath to Mr.
20 Bennafield.

21 THE CLERK: Could you raise your right hand.

22 (Whereupon, the Defendant, SHAUN LANAIL BENNAFIELD,
23 was sworn.)

24 THE COURT: Do you understand that now that you have
25 been sworn, your answers to my questions are subject to the

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1 penalties of perjury or of making a false statement if you do
2 not answer truthfully?

3 THE DEFENDANT: Yes.

4 THE COURT: Would you please me your full name?

5 THE DEFENDANT: Shaun Lanail Bennafield.

6 THE COURT: How old are you?

7 THE DEFENDANT: Twenty-eight.

8 THE COURT: Keep your voice up, Mr. Bennafield.

9 THE DEFENDANT: Twenty-eight.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: I got my GED and a little bit of
12 community college.

13 THE COURT: A little bit of community college, all
14 right. Are you able to communicate in English?

15 THE DEFENDANT: Yes.

16 THE COURT: Has he been able to do so, Mr. Patton?

17 MR. PATTON: Yes, sir.

18 THE COURT: All right. Have you taken any drugs or
19 medication, have you drunk any alcoholic beverages in the past
20 24 hours?

21 THE DEFENDANT: No.

22 THE COURT: Are you now or have you recently been
23 under the care of a physician or a psychiatrist?

24 THE DEFENDANT: No.

25 THE COURT: Are you now or have you recently been

1 hospitalized or treated for narcotic addition?

2 THE DEFENDANT: No.

3 THE COURT: Do you understand what's happening here
4 today?

5 THE DEFENDANT: Yes.

6 THE COURT: Does either counsel have any doubt about
7 the competence of this defendant to plead guilty at this time
8 to the charge contained in the Indictment, Mr. Piccinini?

9 MR. PICCININI: No, your Honor.

10 THE COURT: Mr. Patton?

11 MR. PATTON: No, sir.

12 THE COURT: I find this defendant is competent to
13 plead. Do you have a lawyer with you here today?

14 THE DEFENDANT: Yes.

15 THE COURT: What's his name?

16 THE DEFENDANT: Tom Patton.

17 THE COURT: Have you had a sufficient opportunity to
18 discuss your case with him?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you happy with the work that he's
21 done for you?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if you continue

24 to plead not guilty and do not change your plea, you would have
25 the right to be assisted by an attorney at the trial of the

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1 charge against you?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if you did not
4 enter a guilty plea and that if you qualified financially, you
5 would be entitled to be assisted by an attorney at no cost to
6 you at every phase of the processing of the charge against you?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that if you did not
9 plead guilty and that if there were a trial, under the
10 Constitution and laws of the United States, you would be
11 entitled to a speedy trial by a judge and jury on the charge
12 contained in the Indictment?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that if there were a
15 trial, you would be presumed to be innocent at the trial of the
16 charge against you?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you understand that if there were
19 a trial, the government would be required to prove your guilt
20 by competent evidence and beyond a reasonable doubt before you
21 could be found to be guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if there were a
24 trial, you would not have to prove that you were innocent?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that if there were a
2 trial, the jury would have to be unanimous in order to find you
3 guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that if there were a
6 trial, you would have the right to participate in the selection
7 of the jury; that you would have the right to strike or
8 eliminate any prospective juror if it was demonstrated that the
9 juror would be unable to render a fair and impartial verdict;
10 and that you would have the right to strike or eliminate ten
11 jurors from the jury and one alternate juror, without giving

12 any reason at all for so doing?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that if there were a
15 trial, the witnesses for the government would have to come to
16 court and testify in your presence?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that if there were a
19 trial, your counsel could cross-examine the witnesses for the
20 government, object to evidence offered by the government and
21 then offer evidence on your behalf?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that if there were a
24 trial, the government would have to pay witness fees to
25 witnesses which you wished to call on your behalf, if you

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1 qualified as being financially unable to do so?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if there were a
4 trial, you would have the right to testify if you chose to?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that if there were a
7 trial, you would have the right not to testify and that no
8 inference or suggestion of guilt could be drawn from the fact
9 that you did not testify?

10 THE DEFENDANT: Yes.

11 THE COURT: If you plead guilty and I accept your
12 plea, do you understand that you will waive your right to a
13 trial and the other rights which I have mentioned to you, that
14 there will be no trial, and I will enter a judgment of guilt
15 and sentence you on the basis of your guilty plea after
16 considering a presentence report?

17 THE DEFENDANT: Yes.

18 MR. PATTON: Actually, your Honor, it would be Judge
19 Cohill that will do the sentencing.

20 THE COURT: I apologize, that's quite right. I'm
21 not going to do it, Judge Cohill is going to sentence you, do
22 you understand?

23 THE DEFENDANT: Yes.

24 THE COURT: If you plead guilty, do you understand
25 that you will also have to waive your right not to incriminate

1 yourself, because I'll ask you questions about what you did in
2 order to satisfy myself that you are guilty as charged and you
3 will have to acknowledge your guilt?

4 THE DEFENDANT: Yes.

5 THE COURT: Now that I mentioned your rights to you,
6 do still wish to plead guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you received a copy of the
9 Indictment naming you and have you discussed with Mr. Patton
10 the charge in the Indictment to which you intend to plead
11 guilty?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that you are charged
14 as follows: "On or about March 2, 2005, in the County of Erie,
15 in the Western District of Pennsylvania, the defendant, Shaun
16 Lanail Bennafield, did knowingly, intentionally and unlawfully
17 possess with intent to distribute and distribute 50 grams or
18 more of a mixture and substance containing a detectable amount
19 of cocaine base, in the form commonly known as crack, a
20 Schedule II controlled substance." In violation of Title 21,

21 United States Code, Sections 841(a)(1), et seq. Do you

22 understand the charge?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that in order for the

25 crime of possession with intent to distribute and distribution

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1 of 50 grams or more of cocaine base, in violation of Title 21

2 U.S.C. 841(a)(1), et seq., to be established, the government

3 must prove all of the following essential elements beyond a

4 reasonable doubt.

5 That on or about the date set forth, the defendant

6 distributed or possessed with intent to distribute the

7 controlled substance charged in the Indictment.

8 Two. That the defendant did so knowingly and

9 intentionally.

10 Three. That cocaine base is a Schedule II

11 controlled substance.

12 And, four, that the mixture or substance containing

13 a detectable amount of cocaine base was 50 grams or more.

14 Do you understand the elements of this crime?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that the maximum
17 penalty is a term of imprisonment of not less than 10 years to
18 a maximum of life.

19 A fine not to exceed \$4 million.

20 A term of supervised release of at least five years.

21 For a second felony drug conviction that is final,
22 whether federal, state or foreign; a term of imprisonment of
23 not less than twenty years to a maximum of life.

24 A fine not to exceed \$8 million.

25 A term of supervised release of at least 10 years.

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1 For a third or subsequent felony drug conviction
2 that is final, whether federal, state or foreign; a mandatory
3 sentence of life imprisonment.

4 A fine not to exceed \$8 million.

5 As well as a mandatory special assessment of \$100.

6 Do you understand the maximum penalties for this
7 crime?

8 THE DEFENDANT: Yes.

9 THE COURT: Now, has anybody made any threat to you

10 or to anyone else that has forced you in any way to plead

11 guilty today?

12 THE DEFENDANT: No.

13 THE COURT: Has there been a plea agreement, Mr.

14 Piccinini?

15 MR. PICCININI: There has not, your Honor.

16 THE COURT: All right. Do you understand that the

17 offense to which you are pleading guilty today is a felony

18 offense --

19 MR. PATTON: Can we have one moment, your Honor?

20 THE COURT: Yes.

21 (Discussion held off the record between the

22 Defendant and Defense Counsel.)

23 MR. PATTON: We're ready, your Honor.

24 THE COURT: All right. Do you understand that the

25 offense to which you are pleading guilty is a felony offense;

1 that if your plea is accepted, you will be adjudged guilty of

2 that offense and that such adjudication may deprive you of

3 valuable civil rights; such as the right to vote, hold public

4 office, serve on a jury, and the right to possess any type of

5 firearm, do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Under the Sentencing Reform Act of 1984,

8 the United States Sentencing Commission has issued guidelines

9 for judges to follow in determining sentences in criminal cases

10 for offenses occurring after November 1, 1987. Have you and

11 your attorney talked about how the Sentencing Guidelines might

12 apply to your case and the fact that the guideline ranges are

13 now advisory by virtue of Supreme Court decisions?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you understand that Judge Cohill

16 will not be able to determine the advisory guideline sentence

17 for your case until after the presentence report has been

18 completed, you and the government have had an opportunity to

19 challenge the facts reported by the probation officer?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that after it has been

22 determined what guideline sentence applies to a case, the judge

23 has the authority, in some circumstances, to impose a sentence

24 that is more severe or less severe than the sentence called for

25 by the Sentencing Guidelines?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that under certain
3 circumstances you or the government may have the right to
4 appeal any sentence which Judge Cohill imposes?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that parole has been
7 abolished, and that if you are sentenced to a term of
8 imprisonment, you will not be released on parole?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that if the sentence
11 is more severe than you expected, you will still be bound by
12 your guilty plea and you will have no right to withdraw it?

13 (Discussion held off the record between the
14 Defendant and Defense Counsel.)

15 THE DEFENDANT: Yes.

16 THE COURT: Was there anything about the question
17 that you didn't understand?

18 THE DEFENDANT: No.

19 THE COURT: All right. Except for your discussions
20 with Mr. Patton about the Sentencing Guidelines, has anybody
21 made any prediction or promise to you about what your sentence
22 will be?

23 THE DEFENDANT: No.

24 THE COURT: Has anything that I've said here today
25 suggested to you what your actual sentence is going to be?

13

1 THE DEFENDANT: No.

2 THE COURT: Have you been instructed by your
3 counsel, by government counsel or by anybody else to respond
4 untruthfully to a question about a promised sentence?

5 THE DEFENDANT: No.

6 THE COURT: Mr. Bennafield, did you, as charged in
7 Count One and as previously read to you by me, commit the
8 offense as charged?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. What would be the
11 government's proof here, Mr. Piccinini, if this case proceeded
12 to trial?

13 MR. PICCININI: Your Honor, if the matter proceeded
14 to trial, the government would provide testimony from the Erie
15 Bureau of Police, as well as the Erie County detective's
16 office, which would establish for the jurors that on March 2,
17 2005, a search warrant was executed at 421 East 10th Street.
18 During the course of that execution of that search warrant, a
19 quantity of crack cocaine was discovered. Through further
20 investigation it was determined that the supplier of those
21 individuals at that residence was in fact an individual from
22 Cleveland, Ohio, known to those individuals by the nickname
23 Kenny.

24 Those individuals cooperated and provided
25 information concerning Kenny. And indicated that Kenny had

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1 called earlier that day indicating that he was here in town in
2 Erie and had a quantity of cocaine. A series of telephone
3 conversations occurred between the individual known to the
4 cooperators as Kenny, culminating in the defendant, known to
5 these individuals as Kenny, calling and indicating that they
6 can meet at Denny's Coin Laundry, a location within the City of

7 Erie.

8 Surveillance officers conducted surveillance at that
9 time, provided instructions to the cooperator, who at the time
10 met with this individual, later identified as the defendant,
11 who then sold to that cooperating witness a quantity of
12 approximately two ounces of cocaine.

13 When law enforcement officers then went to the
14 laundromat, the defendant was present, attempted to initially
15 run from them, was discovered at that time. He indicated to
16 them that he was not going to run, he wasn't going fight them.
17 And he admitted the bag of dope was sitting right there next to
18 him. They then retrieved that bag of dope. They also
19 retrieved a quantity of cocaine that had been sold to the
20 cooperator. Officers picked up that bag, the defendant
21 identified himself as Kenny and identified himself as Shaun
22 Bennafield. The defendant had immediately stated words to the
23 effect that I know, and I'm not going to use the complete
24 language, that MFr's was trying to set me up. The defendant
25 then said later while at the booking counter words to the

1 effect, the dude I'm dealing with is working with you all,
2 ain't he, or words to that effect.

3 The cocaine, both that was seized from the ground,
4 as well as what was sold by Mr. Bennafield to the cooperator
5 was sent to the Pennsylvania State Police crime laboratory for
6 testing. And Forensic Scientist II Brett Baylor determined
7 that, those two quantities that were dealing with here in the
8 Indictment, there were 67.6 grams of cocaine base in the form
9 commonly known as crack. That would be the nature of the
10 government's proof.

11 THE COURT: All right. Mr. Bennafield, you just
12 heard everything that Mr. Piccinini has said by way of summary,
13 do you agree with everything he said?

14 (Discussion held off the record between the
15 Defendant and Defense Counsel.)

16 MR. PATTON: Your Honor, the only clarification we
17 would have is that Mr. Bennafield denies making any statement
18 to arresting officers regarding the bag of drugs that was found
19 on the floor of the laundromat next to where Mr. Bennafield was
20 arrested. But he admits to everything else that Mr. Piccinini
21 said.

22 THE COURT: In other words, he is admitting all of
23 the conduct which is a predicate to the charge that's here, all
24 the necessary elements?

25 MR. PATTON: That is correct.

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1 THE COURT: All right. He's just not admitting to
2 the comment that he made.

3 MR. PATTON: That was attributed to him during Mr.
4 Piccinini's factual basis.

5 THE COURT: All right. Do you still wish to plead
6 guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Is it your advice that he do so, Mr.
9 Patton?

10 MR. PATTON: Yes, sir.

11 THE COURT: Because you acknowledge you are in fact
12 guilty as charged in Count One and because you know about your
13 right to a trial, because you know what the maximum possible
14 penalty is, and because you are voluntarily pleading guilty, I
15 will accept your guilty plea and enter a judgment of guilty on

16 your plea to Count One of Indictment No. 05-12 Erie.

17 It is therefore the finding of the court in the case
18 of United States versus Shaun Lanail Bennafield that this
19 defendant is fully competent and capable of entering an
20 informed plea, his plea of guilty is a knowing and voluntary
21 plea supported by an independent basis in fact containing each
22 of the essential elements thereof and, therefore, the plea is
23 accepted and the defendant is now adjudged guilty of the
24 charge. Would you please have counsel and the client sign the
25 change of plea.

17

1 (Whereupon, the Change of Plea was executed by the
2 Defendant and Defense Counsel.)

3 THE COURT: Mr. Bennafield, a presentence report
4 will be prepared by the probation officer and it is in your
5 best interests to cooperate with the probation officer in
6 furnishing information for that report, because that report
7 will be important in Judge Cohill's decision about what your
8 sentence will be. You and your counsel will have the right and
9 will have the opportunity to examine the report before

10 sentencing.

11 The disposition of sentencing in this case is set

12 for March 13th, at 10 a.m., before Judge Cohill.

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14 (Whereupon, at 1:45 p.m., the Change of Plea

15 proceedings were concluded.)

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1 C E R T I F I C A T E

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5 I, Ronald J. Bench, certify that the foregoing is a
6 correct transcript from the record of proceedings in the
7 above-entitled matter.

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12 Ronald J. Bench

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